In the High Court of Punjab and Haryana, Chandigarh.

Civil Revision No. 6633 of 2007

Date of Decision: 20.12.2007

Employees' State Insurance Corporation, Faridabad.

…Petitioner

Versus

M/s Indian Oil Corporation Limited, Faridabad.

…Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Vikas Suri, Advocate
for the petitioner.

RAJESH BINDAL, J.

The petitioner has approached this Court with a grouse that learned Court below is not proceeding in the case before it in accordance with law and accordingly the proceedings undertaken by it deserve to be quashed.

The present petition arises out of a petition filed by the respondent before the Presiding Officer, Employees' Insurance Court, Faridabad, under Section 75 of the Employees' State Insurance Act, 1948 (for short "the Act"). Along with the petition, in terms of provisions of Section 75 (2B) of the Act, an application has been filed praying that respondent be dispensed with from the condition of pre deposit of 50% of the disputed amount. The grouse of the petitioner is that during pendency of application, the recovery has been stayed. Once the Court has not yet taken the cognizance of the petition, no recovery could have been stayed.

The submission of learned counsel for the petitioner is totally meritless. The provisions of Section 75 of the Act are quite explicit wherein it is provided that no mater in dispute between a principal employer and the Corporation in respect of any contribution or any other dues shall be raised by the principal employer in the Employees' Insurance Court unless he has deposited with the Court 50% of the amount claimed from him provided that for the reasons to be recorded in writing, the Court can waive or reduce the

amount to be deposited.

It is not disputed that while filing the petition under Section 75 of the Act disputing the liability the respondent had filed an application under proviso to Section 75 (2B) of the Act praying for dispensation from deposit of 50% of the disputed amount. In case, during the pendency of consideration of the application for dispensation under the above referred provision, the respondent is made to deposit the amount, the prayer for stay itself will become infructuous. Learned Court below is not considering the petition filed by the respondent on merits without either ensuring the deposit of 50% of the disputed amount or passing an order on the application for dispensation thereof. A perusal of various orders passed by the Court below as are reproduced in the petition show that the application is still pending consideration and according to the petitioner is now fixed for April 7, 2008.

In view of the facts mentioned above, I do not find that learned Court below is dealing with the matter in the manner unknown to law, accordingly does not need any interference by this Court.

However, the prayer made by learned counsel for the petitioner to the effect that the Court be directed to dispose of the application at an early date needs consideration and accordingly, learned Court below is directed to dispose of the application filed under proviso to Section 75 (2B) of the Act as early as possible either on the date already fixed or immediately thereafter.

The revision petition is disposed of accordingly.

(Rajesh Bindal)
Judge

December 20, 2007
"DK"